

**Senate Bill No. 1613**

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Passed the Senate August 31, 2006

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*Secretary of the Senate*

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Passed the Assembly August 29, 2006

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2006, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

Second enrollment

## CHAPTER \_\_\_\_\_

An act to add Section 12810.3 to, and to add and repeal Section 23123 of, the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1613, Simitian. Vehicles: wireless telephones.

Under existing law, motor vehicle operation is regulated, and drivers must follow many legal requirements or face criminal sanctions. Under existing law, it is a crime for a person to drive a schoolbus or transit vehicle while using a wireless telephone, except for certain work-related or emergency purposes.

This bill would make it an infraction, operative July 1, 2008, to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving. This offense would be punishable by a base fine of \$20 for a first offense and \$50 for each subsequent offense.

The bill would provide that this prohibition does not apply to a person who is using the cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes, or to an emergency services professional while he or she operates an authorized emergency vehicle, as specified. The bill also would prohibit the assignment of a violation point for a violation of the above.

The bill, until July 1, 2011, also would provide that this prohibition does not apply to a person when using a digital 2-way radio service that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, and that person is driving a motor truck or truck tractor, as respectively defined, a listed or described implement of husbandry, a listed farm vehicle, a tow truck, or a commercial vehicle, as defined, used in commercial agricultural operations.

The bill would specify that these provisions do not apply to a person driving a schoolbus or transit vehicle that is subject to certain existing wireless telephone usage restrictions, and would

specify that the restrictions contained in this bill do not apply to a person while driving a motor vehicle on private property.

By creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known and may be cited as the California Wireless Telephone Automobile Safety Act of 2006.

SEC. 2. The Legislature finds and declares all of the following:

(a) There are significant safety benefits associated with the availability of wireless communication technologies, including, but not limited to, providing assistance that helps save lives and minimizes property damage.

(b) On a daily basis, California drivers make thousands of wireless telephone emergency 911 calls.

(c) The availability of wireless telephones in motor vehicles allows motorists to report accidents, fires, naturally occurring life-threatening situations, including, but not limited to, rock slides and fallen trees, other dangerous road conditions, road rage, dangerous driving, criminal behavior, including drunk driving, and stranded motorist situations.

(d) There is growing public concern regarding the safety implications of the widespread practice of using hand-held wireless telephones while operating motor vehicles.

(e) It is in the best interests of the health and welfare of the citizens of the state to enact one uniform motor vehicle wireless telephone use law that establishes statewide safety guidelines for use of wireless telephones while operating a motor vehicle.

SEC. 3. Section 12810.3 is added to the Vehicle Code, to read:

12810.3. (a) Notwithstanding subdivision (f) of Section 12810, a violation point shall not be given for a conviction of a violation of subdivision (a) of Section 23123.

(b) The section shall become operative on July 1, 2008.

SEC. 4. Section 23123 is added to the Vehicle Code, to read:

23123. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this section is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person when using a digital two-way radio that utilizes a wireless telephone that operates by depressing a push-to-talk feature and does not require immediate proximity to the ear of the user, and the person is driving one of the following vehicles:

(1) (A) A motor truck, as defined in Section 410, or a truck tractor, as defined in Section 655, that requires either a commercial class A or class B driver's license to operate.

(B) The exemption under subparagraph (A) does not apply to a person driving a pickup truck, as defined in Section 471.

(2) An implement of husbandry that is listed or described in Chapter 1 (commencing with Section 36000) of Division 16.

(3) A farm vehicle that is exempt from registration and displays an identification plate as specified in Section 5014 and is listed in Section 36101.

(4) A commercial vehicle, as defined in Section 260, that is registered to a farmer and driven by the farmer or an employee of the farmer, and is used in conducting commercial agricultural

operations, including, but not limited to, transporting agricultural products, farm machinery, or farm supplies to, or from, a farm.

(5) A tow truck, as defined in Section 615.

(f) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(g) This section does not apply to a person while driving a motor vehicle on private property.

(h) This section shall become operative on July 1, 2008, and shall remain in effect only until July 1, 2011, and, as of July 1, 2011, is repealed.

SEC. 5. Section 23123 is added to the Vehicle Code, to read:

23123. (a) A person shall not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.

(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this sections is an infraction punishable by a base fine of twenty dollars (\$20) for a first offense and fifty dollars (\$50) for each subsequent offense.

(c) This section does not apply to a person using a wireless telephone for emergency purposes, including, but not limited to, an emergency call to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

(d) This section does not apply to an emergency services professional using a wireless telephone while operating an authorized emergency vehicle, as defined in Section 165, in the course and scope of his or her duties.

(e) This section does not apply to a person driving a schoolbus or transit vehicle that is subject to Section 23125.

(f) This section does not apply to a person while driving a motor vehicle on private property.

(g) This section shall become operative on July 1, 2011.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2006

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*Governor*